

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JULY 5, 2005

CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairperson Brizzi and Commissioner Sturtz. Also in attendance were Industry Liaison Okey, Executive Secretary Choe and Superintendent Huskey.

Alex Intermill of Bose McKinney and Evans, Marc Carmichael of IBA and Mike Curts of ILBA were present as observers.

DISPOSITION OF MINUTES

Vice Chairperson Brizzi moved to approve the minutes submitted for the June 21, 2005 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PARTIES AGREED DISPOSITION (PAD) FORMS – Vice Chairperson Brizzi moved to approve the PAD forms submitted for the July 5, 2005 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR45-06542 GAIL GRAY – Hearing Judge Choe stated a violation hearing took place regarding this permit. It is the Hearing Judge's recommendation that the permittee be given a seven (7) day suspension and a \$3,000.00 fine.

Vice Chairperson Brizzi moved to approve the findings. Motion seconded by Commissioner Sturtz and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

Two hundred nineteen (219) renewals approved, twenty-two (22) new and/or transfer permits approved, seven (7) permits approved for catering and four (4) permits approved for first year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairperson Brizzi moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR71-04547 MILLENNIUM CLUB, INC., D/B/A THE BOAT CLUB – Executive Secretary Choe stated that a settlement agreement was made with the prosecutor and this permittee that the permit be placed in escrow and transferred to a new owner. The prosecutor did not specify a time limit on the escrow. The Executive Secretary asked the Commission if they would like to put a limit on that escrow time.

Chairman Heath moved to allow a permit six (6) months to sell the permit and if after that six months the permit has not been sold, the permittee should come before the full Commission to discuss why the permit was not sold. The Chairman wants the permittee to state the process they are going through to sell the permit and what they have actually done to get the permit sold.

Executive Secretary Choe asked the Chairman if he wanted this to be done retroactively. The Chairman stated that he felt this policy should be made retroactive.

Commissioner Sturtz asked if this motion includes all requests for escrow, even though it was not a situation where a violation occurred and the prosecutor ordered the permit to be placed in escrow and sold. Chairman Heath stated that he wants the policy to include all requests for escrow included.

Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR48-02854 PIT ROAD SALOON – The Commission took this matter under advisement.

RR15-21742 & RR15-21743 ROBERT HREZO – Executive Secretary Choe stated the Dearborn County Local Board recommended denial of this permit, but provided no

audiotape of the hearing or any reasons for the recommendation. The Executive Secretary recommended the Commission remand this application to the local board for reinvestigation.

Commissioner Sturtz moved to remand this application to the local board. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

RR41-13162 L & LS RUMORS GRILL –Executive Secretary Choe stated she received a letter regarding whether or not Glenna Faye Harris has an ownership right to this permit. There appears to be a dispute.

Vice Chairperson Brizzi stated that there is no legal documentation in the file that states that Ms. Harris has ever had an ownership right to this permit.

Vice Chairperson Brizzi moved to give Ms. Harris ten (10) days to provide documentary evidence that she has ownership in this permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR82-21738 MADELINE’S RESTAURANT - Chairman Heath noted this application was filed as a type 112 permit, however, it is outside the city limits of Evansville. The permit needs to be converted to a type 111 permit.

Vice Chairperson Brizzi moved to approve this request. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL76-96230 UP IN SMOKE, INC. – Chairman Heath noted this is a type 116 renewal application with the local board voting three (3) to one (1) to approve.

Vice Chairperson Brizzi moved to uphold the local board’s recommendation and approve the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR49-09161 ROBERT L. ANDERSON & GEORGE W. ANDERSON D/B/A ANDERSON’S RESTAURANT – Chairman Heath noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board’s recommendation and deny the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR02-85197 ROCK-N-HORSE, INC. - Chairman Heath stated the location of this permit was annexed into the city limits of Fort Wayne and needs to be converted to a type 210 permit.

Vice Chairperson Brizzi moved to approve this request. Motion seconded by Commissioner Sturtz and it was unanimously approved.

INACTIVE FILES

Chairman Heath stated there are forty-six (46) permits to be made inactive. Thirty-seven (37) permits are not subject to auction and nine (9) permits are subject to auction.

Vice Chairperson Brizzi moved to make these permits inactive. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPEALS FROM LOCAL BOARD RECOMMENDATIONS

DL83-21671 CASEY'S MARKETING COMPANY, DL82-21381 WAL-MART STORES EAST LP, RR04-05275 ARNOLD GILBERT, RR46-08603 JASON PRATER, RR49-06124 FLYING SOLO, INC., RR32-19642 THE ULTIMATE SPORTS BAR & GRILL, INC., DL06-21727 KROGER LIMITED PARTNERSHIP I, DL40-21667 KROGER LIMITED PARTNERSHIP – Chairman Heath stated appeals have been filed for these applications.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

No Policy Determinations

UNDER ADVISEMENT

Nothing Under Adviseement

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

Approved this _____ day of _____, 2005.

DAVE HEATH, CHAIRMAN

MELANIE BRIZZI, VICE CHAIRPERSON

DALE STURTZ, COMMISSIONER